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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,947	01/13/2004	Norman F. Krasner	000730C1	3281
23696	7590	10/27/2005	EXAMINER	
QUALCOMM, INC 5775 MOREHOUSE DR. SAN DIEGO, CA 92121			CUMMING, WILLIAM D	
			ART UNIT	PAPER NUMBER
			2683	

DATE MAILED: 10/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/756,947	Applicant(s) NORMAN KRANER	
	Examiner WILLIAM D. CUMMING	Art Unit 2683	

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 August 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-84 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-84 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
 1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. Claims 1-3, 5-17, 20-29, 31, 34-39, 43-61, 65-68, 71-75 and 79-84 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Murphy** in view of **Timo, et al**

Murphy disclose all subject matter claimed, note paragraph 9 of the Office action dated September 16, 2004, except for common information comprises data that is concurrently contained in more than one of the received SPS signals. **Timo, et al** teaches the use of common information comprises data that is concurrently contained in more than one of the received SPS signals in a method and system for satellite positioning system (SPS) signal processing for the purpose of highly accurate positioning measurements.

Hence, it would have been obvious for one of ordinary skill in the art at the time the claimed invention was made to incorporate the use of common information comprises data that is concurrently contained in more than one of the received SPS signals, as taught by **Timo, et al**, in the method and system for satellite positioning system (SPS) signal processing of **Murphy** in order to have highly accurate positioning measurements.

4. Claims 1-3, 5-17, 20-29, 31, 34-39, 43-61, 65-68, 71-75 and 79-84 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Stansell Jr. or Stansell, Jr., et al** in view of **Timo, et al**

Stansell Jr. or Stansell, Jr., et al disclose all subject matter claimed, note paragraph 10 of the Office action dated September 16, 2004, except for common information comprises data that is concurrently contained in more than one of the received SPS signals. **Timo, et al** teaches the use of common information comprises data that is concurrently contained in more than one of the received SPS signals in a method and system for satellite positioning system (SPS) signal processing for the purpose of highly accurate positioning measurements.

Hence, it would have been obvious for one of ordinary skill in the art at the time the claimed invention was made to incorporate the use of common information comprises data that is concurrently contained in more than one of the received SPS signals, as taught by **Timo, et al**, in the method and system for satellite positioning system (SPS) signal processing of **Stansell Jr. or Stansell, Jr., et al** in order to have highly accurate positioning measurements.

5. Claims 4, 18, 30, 31, 33, 40, 41, 62, 63, 69, 70, 76, 77, and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Murphy or Stansell Jr. or Stansell, Jr., et al** in view of **Timo, et al** as applied to the claims above, and further in view of **Jones, et al**.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

7. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

8. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1-84 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of copending Application No. **09/074,021**. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the continuation are broader than the claims in the parent application (In re Van Ornum and Stanz, 214 USPQ 761).

10. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

11. Claims 1-84 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 5,812,087 in view of **Murphy** as stated by paragraph 7 of Office actions dated March 21, 2000 and December 9, 2002.

12. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

13. Applicant's arguments filed August 17, 2005 have been fully considered but they are not persuasive.

Applicant's attorney traverse the double patenting rejection but failed to provide any arguments specifically pointing out the errors of that rejection, hence, it is not withdrawn.

14. Applicant's arguments with respect to claims 1-3, 5-17, 20-29, 31, 34-39, 43-61, 65-68, 71-75 and 79-84 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Vannucci discloses a hybrid satellite based positioning system.

Moeglein, et al disclose a method and apparatus for wireless network hybrid positioning.

16. United States Postal Service Interruption and Emergency under 35 U.S.C.21(a)

The United States Patent and Trademark Office (USPTO) is designating the interruption in service of the United States Postal Service (USPS) in the areas affected by Hurricane Katrina in Louisiana, Mississippi, Alabama, and Florida on August 28, 2005, as a postal service interruption and an emergency within the meaning of 35 U.S.C. § 21(a) and 37 CFR 1.10(i) and 2.195(e). Postal services in Louisiana, Mississippi, Alabama, and Florida have been suspended intermittently since Sunday, August 28, 2005, due to Hurricane Katrina. To determine whether a post office has been closed or postal services have been suspended in a particular area due to Hurricane Katrina, contact the post office directly or visit the USPS's Web site at: <http://www.usps.gov>.

As soon as the USPTO receives further information from the USPS as to when postal services in the affected areas will be resumed, the USPTO will post updated information regarding this situation on the USPTO Web site (<http://www.uspto.gov>) and in the Official Gazette.

17. United States Postal Service Interruption and Emergency under 35 U.S.C. 21(a)

The United States Patent and Trademark Office (USPTO) is designating the interruption in service of the United States Postal Service (USPS) in the areas affected by Hurricane Rita in Louisiana and Texas on September 23, 2005, as a postal service interruption and an emergency within the meaning of 35 U.S.C. § 21(a) and 37 CFR 1.10(i) and 2.195(e).

Postal services in Louisiana and Texas have been suspended intermittently since Friday, September 23, 2005, due to Hurricane Rita. To determine whether a post office has been closed or postal services have been suspended in a particular area due to Hurricane Rita, contact the post office directly or visit the USPS's Web site at: <http://www.usps.gov>.

As soon as the USPTO receives further information from the USPS as to when postal services in the affected areas will be resumed, the USPTO will post updated information regarding this situation on the USPTO Web site (<http://www.uspto.gov>) and in the Official Gazette.

Patent-Related Correspondence

37 CFR 1.10(i) addresses interruptions or emergencies in USPS "Express Mail Post Office to Addressee" service that are designated by the Director for patent-related correspondence. Correspondence covered by 37 CFR 1.10 that would have been filed with the USPTO under 37 CFR 1.10 during this USPS service interruption, but which was not filed due to the USPS service interruption, should be filed promptly after the termination of the USPS service interruption with a petition in accordance with 37 CFR 1.10(i) using "Express Mail" service in accordance with 37 CFR 1.10.

The provisions of 35 U.S.C. § 21(a) and 37 CFR 1.10(i) apply only to postal interruptions and emergencies. The provisions of 35 U.S.C. § 21(a) and 37 CFR 1.10(i)

do not provide for the granting of a filing date to correspondence as of the date on which it would have been filed but for other exigencies, such as the unavailability of an office or building other than a USPS facility. These provisions apply only if the post office was closed or "Express Mail" service suspended in the affected areas on the specified date due to Hurricane Rita.

37 CFR 1.10(i) provides that any person attempting to file correspondence by "Express Mail Post Office to Addressee" service that was unable to be deposited with the USPS due to an interruption or emergency in "Express Mail" service which has been so designated by the Director may petition the Director to consider such correspondence as filed on a particular date in the Office. 37 CFR 1.10(i) specifically provides that: any person attempting to file correspondence under this section that was unable to be deposited with the USPS due to an interruption or emergency in "Express Mail" service which has been so designated by the Director, may petition the Director to consider such correspondence as filed on a particular date in the Office, provided that:

(1) the petition is filed in a manner designated by the Director promptly after the person becomes aware of the designated interruption or emergency in "Express Mail" service;

(2) the petition includes the original correspondence or a copy of the original correspondence; and

(3) the petition includes a statement which establishes, to the satisfaction of the Director, that the correspondence would have been deposited with the USPS but for the designated interruption or emergency in "Express Mail" service, and that the correspondence or copy of the correspondence is the original correspondence or a true copy of the correspondence originally attempted to be deposited with the USPS on the requested filing date.

Patent-related inquiries concerning this notice may be directed to Eugenia Jones, Senior Legal Advisor in the Office of Patent Legal Administration, at (571) 272-7704 or at PatentPractice@uspto.gov.

Trademark-Related Correspondence

37 CFR 2.195(e) and 2.198 address interruptions or emergencies in USPS "Express Mail Post Office to Addressee" service that are designated by the Director for trademark-related correspondence. Correspondence covered by 37 CFR 2.198 that would have been filed with the USPTO under 37 CFR 2.198 during this USPS service interruption, but which was not filed due to the USPS service interruption, should be filed promptly after the termination of the USPS service interruption with a petition in accordance with 37 CFR 2.146 and 2.198.

The provisions of 35 U.S.C. § 21(a) and 37 CFR 2.195(e) apply only to postal interruptions and emergencies. These provisions do not provide for the granting of a filing date to correspondence as of the date on which it would have been filed but for other exigencies, such as the unavailability of an office or building other than a USPS facility. These provisions apply only if the post office was closed or "Express Mail" service suspended in the affected areas on the specified date due to Hurricane Rita.

Under 37 CFR 2.195(e) and 2.198, any person attempting to file correspondence by "Express Mail Post Office to Addressee" service that was unable to be deposited with

the USPS due to the interruption or emergency in "Express Mail" service in the areas designated in this notice may petition the Director to consider such correspondence as filed on a particular date in the Office. The petition must:

- (1) Be filed promptly after the ending of the designated interruption or emergency in "Express Mail" service;
- (2) Include the original correspondence or a copy of the original correspondence; and
- (3) Include a statement which establishes, to the satisfaction of the Director, that (1) the correspondence would have been deposited with the USPS but for the designated interruption or emergency in "Express Mail" service, and (2) the correspondence or copy of the correspondence is the original correspondence or a true copy of the correspondence originally attempted to be deposited with the USPS on the requested filing date.

Please note that under 37 CFR 2.101(b)(2), 2.102(a)(2) and 2.198(a)(1), the Express Mail procedures cannot be used for the following types of correspondence: applications for registration of marks; amendments to allege use under 15 U.S.C. § 1051(c); statements of use under 15 U.S.C. § 1051(d); requests for extension of time to file a statement of use under 15 U.S.C. § 1051(d); affidavits of continued use under 15 U.S.C. § 1058; renewal applications under 15 U.S.C. §1059; requests to change or correct addresses; combined filings under 15 U.S.C. §§ 1058 and 1059; combined affidavits or declarations under 15 U.S.C. §§ 1058 and 1065; responses to notices of irregularity under 37 CFR 7.14; requests for transformation under 37 CFR 7.31; notices of opposition to applications based on 15 U.S.C. § 1141f(a); and requests for extensions of time to oppose applications based on 15 U.S.C. § 1141f(a).

Moreover, 37 CFR 2.197 (certificate of mailing procedure) does not provide for according a filing date as of the date of deposit with the USPS. Therefore, it would be inappropriate to file a petition seeking a filing date as of the date of deposit of the types of correspondence listed in 37 CFR 2.101(b)(2), 2.102(a)(2) and 2.198(a)(1) as Express Mail, or as of the date on a certificate of mailing under 37 CFR 2.197.

Trademark-related inquiries concerning this notice may be directed to Mary Hannon, Office of the Deputy Commissioner for Trademark Examination Policy, at (571) 272-9569.

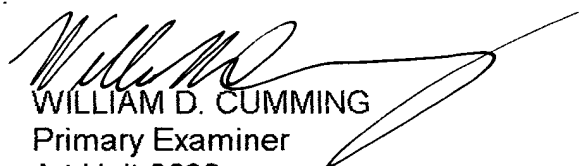
Date: 9/27/05 IS/

If applicants wish to request for an interview, an "*Applicant Initiated Interview Request*" form (PTOL-413A) should be submitted to the examiner prior to the interview in order to permit the examiner to prepare in advance for the interview and to focus on the issues to be discussed. This form should identify the participants of the interview, the proposed date of the interview, whether the interview will be personal, telephonic, or video conference, and should include a brief description of the issues to be discussed. A copy of the completed "*Applicant Initiated Interview Request*" form should be attached to the Interview Summary form, PTOL-413 at the completion of the interview and a copy should be given to applicant or applicant's representative.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM D. CUMMING whose telephone number is 571-272-7861. The examiner can normally be reached on Monday-Thursday 11am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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